

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Hame, Markus, et al.

Serial Number: 10/569,169

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Group Art Unit: 3651

Examiner: Singh, Kavel

Title: PASSENGER CONVEYOR DRIVE MONITORING ARRANGEMENT WITH BRAKE ACTUATION

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully requests pre-appeal brief review of the rejections in the Final Action mailed August 11, 2010. Most of the rejections that are the subject of this request are based on the same reference that was the basis of the rejections that were withdrawn as a result of Applicant's previous request for pre-appeal brief review. The panel correctly decided that there was no basis to let this case proceed to the Board at that time. Given that the rejections are essentially the same (i.e., the Examiner has chosen a different secondary reference allegedly having the same feature that the previous secondary reference allegedly taught), the rejections again have to be withdrawn.

The rejections under 35 U.S.C. §103 must be withdrawn.

All of the rejections under 35 U.S.C. §103 are based upon the proposed combination of the *Kraft* and *Joosten* references.

The *Kraft* reference does not teach what the Examiner contends. Without that, there is no *prima facie* case of obviousness. The Examiner contends that the *Kraft* reference has "at least one

drive member (44) that follows a path around a plurality of wheels (38, 58).” There is nothing in the reference, however, that corresponds to a drive member that follows a path around the wheels 38 and 58 of the reference. What the Examiner considers the drive member 44 is a drive unit that is “mounted on the incline” (column 3, lines 45-46). No part of that drive unit follows a path around the wheels 38 and 58. As shown best in Figure 2, the wheels 38 are rollers that support the step chain 15 and the wheels 58 are rollers that support the steps. Neither of those wheels, nor the combination of them, establishes a path that the drive unit 44 would follow. Instead those wheels follow a path established, at least in part, by the truss structure of the escalator of the *Kraft* reference as the steps and step chain move together.

Moreover, the drive unit 44 remains fixed on the incline of the escalator and does not follow any path established by the wheels 38 and 58. Given the association between the steps and the step chain and the relative positions of the wheels 38 and 58, it is impossible for the drive unit 44 to be considered to be following a path around those wheels.

The Examiner contends that the drive unit 44 causes the escalator steps and step chain to follow a path and, therefore, the drive unit follows the path. That is not a reasonable interpretation of the reference. Additionally, Applicant’s claims are more specific than a generic recitation of a drive member that moves steps and a step chain. The claims require that the drive member “follows a path around a plurality of wheels.” The drive unit 44 does not follow any path around the wheels 38, 58 of the *Kraft* reference (nor does anything else, for that matter because nothing moves around those wheels in a manner that would constitute a reasonable interpretation of following a path around those wheels).

Given that the *Kraft* reference does not teach what the Examiner suggests, there is no possible *prima facie* case of obviousness even if it were somehow possible to incorporate a rotary

encoder of any kind from the *Joosten* reference or any other reference, for that matter. There is no *prima facie* case of obviousness and the rejection must be withdrawn.

Further, there is no *prima facie case* of obviousness because there is no reason to make the proposed combination. The Examiner proposes to add a rotary encoder to determine if the wheels 38 and 58 are rotating at the same speed. Such an encoder would serve no purpose in the *Kraft* reference because the steps and step chain have to move together by virtue of the structure of the escalator of the reference. The steps and step chain are interconnected to always move together at the same speed. Therefore, the rollers 38 and 58 are always going to rotate based on the speed of movement of the step chain and steps. There is not going to be any situation in which monitoring any potential difference in speed of rotation between the wheels 38 and 58 would provide any meaningful or useful information because they both always rotate based on the same speed of movement of the step chain together with the steps. Therefore, the legally required reason for making the proposed combination is completely missing and there is no *prima facie* case of obviousness.

The rejections of Claim 27 must be withdrawn.

The Examiner has rejected claim 27 under 35 U.S.C. §112. That rejection must be withdrawn. The Examiner suggests that “since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass.” Applicant respectfully disagrees.

Claim 27 depends from claim 1. Claim 1 recites, “A method of monitoring a passenger conveyor drive assembly, comprising the steps of: providing at least one drive member that follows a path around a plurality of wheels; and determining whether at least selected ones of the wheels rotate at the same speed.” Claim 27 further limits that method by reciting, “The method of claim 1, wherein the drive member wraps at least partially around the selected wheels.”

It is clear that claim 27 requires that the drive member wraps at least partially around the selected wheels of claim 1. There is no ambiguity. The claim is definite. The rejection must be withdrawn.

The Examiner has also rejected claim 27 under 35 U.S.C. §101. That rejection must be withdrawn. To begin with, claim 1 from which claim 27 depends is not rejected under §101 so there is no basis for rejecting claim 27 under that section. Further, the clear recitation of the drive member at least partially wrapping around the selected wheels that are recited in the method of claim 1 leaves no doubt that claim 27 recites patentable subject matter.

Each of the Examiner's rejections of claim 27 appears to be based on the notion that a dependent method claim has to set forth additional steps involved in the process. There is no requirement that a dependent method claim recite additional steps. It only needs to further limit the subject matter of the claim from which it depends. As noted above claim 27 further limits the method of claim 1, which already include appropriately recited method steps.

Conclusion.

All rejections must be withdrawn. Applicant respectfully requests a notice of allowance.

Respectfully submitted,

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